

REMARKS

The Office Action mailed August 29, 2007 has been reviewed and carefully considered. No new matter has been added.

By this Office Action, Claims 1, 6, 15, 16, and 19 have been amended, and Claim 8 has been cancelled. New Claims 20-21 has been added. Claims 1-7 and 9-21 are pending.

The Abstract has been objected to. Accordingly, a replacement paragraph has been submitted, which removes “(300)” from the first line, and re-inserts “(ALG)” in the second line, as suggested by the Examiner. Withdrawal of the objection is respectfully requested.

Claims 6 and 16 have been objected to by the Examiner. Accordingly, Claim 6 has been amended to now recite “wherein said at least one compatibility parameter comprises a header size of said ALG file” (which is now a different limitation than that recited in Claim 3), and Claim 16 has been amended to now recite, *inter alia*, “An apparatus”. Withdrawal of the objection of Claims 6 and 16 is respectfully requested.

Claims 1, 2, 4, 8-10, 12, 16, and 17 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,986,133 to Michael D. O’Brien et al. (hereinafter “O’Brien”). Claims 11 and 18 stand rejected under 35 U.S.C. 103(a) as being unpatentable over O’Brien as applied to Claims 1 and 16. Claims 3, 5-7, 14, 15, and 19 stand rejected under 35 U.S.C. 103(a) as being unpatentable over O’Brien as applied to Claims 1 and 16, and further in view of U.S. Patent No. 5,991,774 to Allan R. Tate et al. (hereinafter “Tate”). Claim 13 stands rejected under 35 U.S.C. 103(a) as being unpatentable over O’Brien as applied to Claim 1, and further in view of U.S. Patent No. 6,031,830 to Paul A. Cowan (hereinafter “Cowan”).

It is to be noted that Claims 1 and 16 are the pending independent claims in the case.

Further, as noted above, Claims 1 and 16 have been amended.

Support for the amendments to Claims 1 and 16 may be found at least at page 10, lines 10-22 (see, also Applicants’ Specification, p. 10, line 12 to p.12, line 1). Support for the amendment to Claim 6 may be found at least at page 10, lines 23-27 of the Applicants’ Specification. Claims 15 and 19 were amended to respectively delete some of the limitations previously recited therein.

Initially, a brief description of O’Brien is provided. O’Brien is directed to a system and method for securely upgrading networked devices (O’Brien, title). To that end, O’Brien further discloses the following in his Abstract: “[a] system ... for upgrading deployed networked devices The devices are enabled with an installed agent ... that can identify and

communicate with a server ... running the upgrade program. When the appropriate conditions are met the server downloads the upgrade to the agent that then installs the upgrade onto the deployed device".

It is respectfully asserted none of the cited references, either taken singly or in combination, teach or suggest the step of/means for "comparing, at the bi-directional communications device, at least one compatibility parameter of said ALG file with at least one of at least one feature of said bi-directional communications device and at least one non-signature feature expected in received and authentic ALG files by said bi-directional communications device", as now recited in amended Claims 1 and 16. In contrast, the primary cited reference, namely O'Brien, simply discloses the comparing of a digital signature, and no more. For example, as explicitly disclosed at column 4, lines 56-64:

The agent is a small piece of software that runs continuously on a device. Its main function is to poll the server for upgrade information and, if an upgrade is available, to fetch and apply it to the device. It must also do this securely by ensuring that he upgrade has come from an authorized the [sic] server and that the contents have not been tampered with during transmission. **The agent accomplishes this by authenticating and verifying the upgrade via the digital signature that is included in an upgrade module.**

Moreover, as further disclosed at column 5, lines 25-34 of O'Brien:

To publish an upgrade, administrators specify the files that constitute the actual upgrade (the upgrade payload), as well as configuration and policy information. Upgrade policies enable system administrators to control upgrade rollouts by specifying which target devices will or will not receive a specific upgrade. The payload is then combined with this information and a digital signature to produce an upgrade module. **The digital signature is used by the agent to authenticate the server and to verify the integrity of the upgrade data.**

Thus, as disclosed in O'Brien, the upgrade module sent to the agent for installation into the networked device includes the actual upgrade (upgrade payload), configuration and policy

information, and a digital signature. In O'Brien, it is only the digital signature that is compared by the agent to verify the integrity of the upgrade data, as explicitly disclosed in numerous places therein.

Nonetheless, the Examiner has cited column 5, lines 55-58, and column 12, lines 48-54 of O'Brien as disclosing the same.

Column 5, lines 55-58 of O'Brien disclose the following: "The system administrator may also apply an Upgrade Policy to control the rollout of the upgrade by IP address, hostname, ratio (e.g., one of every two), or a schedule."

Column 12, lines 48-54 of O'Brien disclose the following: "The the [sic] serverName parameter defines the IP address or hostname of the server that publishes upgrades for this upgrade component. The value of this parameter is the first of three parts that make up the URL the agent sends HTTP GET commands to in order to inquire about and fetch an upgrade".

While O'Brien discloses an upgrade policy to control the rollout of the upgrade, such upgrade policy is disclosed as using IP address, hostname, ratio (e.g., one of every two), or a schedule (see, e.g., O'Brien, col. 5, lines 55-58), NONE of which correspond to a "at least one compatibility parameter of said ALG file" or "at least one feature of said bi-directional communications device" or "at least one non-signature feature expected in received and authentic ALG files by said bi-directional communications device", as recited in Claims 1 and 16. For example, the IP address and the hostname mentioned by the Examiner in the rejection correspond to the server that is providing the upgrades, and do not correspond to at least the actual ALG file itself, nor a feature of the device to be upgraded (the bi-directional communication device).

Further, it is to be noted that while each of Claims 1 and 16 recite that the "comparing" is performed at the bi-directional communications device, in contrast O'Brien discloses the serverName parameter is sent from the agent to the server in order to inquire about and fetch upgrades and, hence, any comparison of the serverName is performed by the server and not the actual device to be upgraded (i.e., the bidirectional communications device) (see, e.g., O'Brien, col. 12, lines 48-54).

Accordingly, O'Brien does not teach or suggest all the above-recited limitations of Claims 1 and 16. Moreover, while not cited against Claims 1 and 16, it is nonetheless respectfully asserted that Tate and Cowan do not cure the deficiencies of O'Brien, and are silent with respect to the above-recited limitations of Claims 1 and 16.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” MPEP §2131, citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Accordingly, Claims 1 and 16 are patentably distinct and non-obvious over the cited references for at least the reasons set forth above.

Claims 2-7, 9-15, and 20-21 depend from Claim 1 and, thus, includes all the elements of Claim 1. Claims 17-19 depend from Claim 16 and, thus, includes all the elements of Claim 16. Accordingly, Claims 2-7, 9-15, 17-19 and 20-21 are patentably distinct and non-obvious over the cited references for at least the reasons set forth above with respect to independent Claims 1 and 16.

Moreover, said dependent claims include patentable subject matter in and of themselves and are, thus, patentable distinct and non-obvious over the cited references in their own right. For example, it is respectfully asserted that none of the cited references, either taken singly or in combination, teach or suggest “wherein said at least one compatibility parameter comprises a file size of said ALG file.”, as recited in Claim 4. The Examiner has cited column 10, lines 33-50 and column 11, lines 56-59 of O’Brien as disclosing the same. The Applicants respectfully disagree.

Column 10, lines 33-50 of O’Brien disclose “configuration information for the agent” represented as an upconfig.text file. While one parameter included therein is an InMemCapacity parameter, such parameter is explicitly disclosed as follows at column 11, lines 56-59 of O’Brien:

InMemCapacity

This parameter is used to specify the amount of memory in bytes to be allocated from the operating system for an in-memory file system.

As is evident from the preceding, such portion of O’Brien relates to an amount of memory to be allocated for an in-memory file system, and NOT to a compatibility parameter of an ALG file. Moreover, even assuming arguendo that the InMemCapacity parameter did correspond to a size of the ALG file, nowhere in O’Brien is it disclosed that the

InMemCapacity parameter is compared to anything, let alone “at least one of at least one feature of said bi-directional communications device and at least one non-signature feature expected in received and authentic ALG files by said bi-directional communications device”, as recited in Claim 1 from which Claim 4 depends and further limits.

Accordingly, O’Brien does not teach the above-recited limitations of Claim 4. Moreover, while not cited against Claim 4, it is nonetheless respectfully asserted that Tate and Cowan do not cure the deficiencies of O’Brien, and are silent with respect to the above-recited limitations of Claim 4.

Accordingly, reconsideration of the rejections is respectfully requested.

Further, as noted above, new Claim 20 has been added. Support for new Claim 20 may be found at least page 10, lines 10-22 (see, also Applicant’s Specification, p. 10, line 12 to p.12, line 1).

It is respectfully asserted that none of the cited references teach or suggest “wherein the at least one compatibility parameter is a non-source-indicating parameter of the AGL file” as recited in Claim 20, keeping in mind the limitations of Claim 1 from which Claim 20 depends. For example, while a compatibility parameter of the ALG file would, by definition, exclude a parameter that simply indicates the source of the file since such parameter would correspond to the source/server and not necessarily indicate compatibility of the ALG file (especially given the prevalent use by many companies of multiple servers in multiple locations to provide upgrades to their products), Claim 20 clearly bolsters this explicitly. In contrast, the Examiner has relied upon the IP address or host name (including serverName) as corresponding to the at least one compatibility parameter recited in Claim 1 from which Claim 20 depends.

Also, it is respectfully asserted that none of the cited references, either taken singly or in combination, teach or suggest “wherein the at least one feature of said bi-directional communications device comprises an amount of available memory in said bi-directional communications device to store the ALG file”, as recited in Claim 21.

In view of the foregoing, Applicants respectfully request that the rejection of the claims set forth in the Office Action of August 29, 2007 be withdrawn, that pending claims 1-7, and 9-21 be allowed, and that the case proceed to early issuance of Letters Patent in due course.

CUSTOMER NO.: 24498
Serial No.: 10/520,854
Office Action dated: August 29, 2007
Response dated: November 9, 2007

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PU020335

No fee is believed due with regard to the filing of this amendment. However, if a fee is due, please charge Deposit Account No. 07-0832.

Respectfully submitted,
John Alan Gervais et al.

Patent Operations
Thomson Licensing Inc.
P.O. Box 5312
Princeton, NJ 08543-5312

By: /Guy Eriksen/
Guy Eriksen, Attorney for Applicants
Registration No.: 41,736

Date: November 9, 2007